

AMENDED IN SENATE APRIL 3, 2008

SENATE BILL

No. 1394

Introduced by Senator Lowenthal

February 21, 2008

An act to repeal Section 103900 of the Health and Safety Code, and to amend ~~and repeal~~ Section 12818 of, and to add Article 6 (commencing with Section 13010) to Chapter 1 of Division 6 of, the Vehicle Code, relating to lapses in consciousness.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

Under existing law, a physician and surgeon is required to report in writing immediately to the local health officer, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Public Health, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would delete these existing provisions and instead would authorize a physician and surgeon to report to the Department of Motor Vehicles (DMV), in good faith, specified information relating to a patient at least 15 years of age, or 14 years of age if the patient has a junior permit, whom the physician and surgeon has diagnosed as having

suffered a lapse of consciousness, if the physician and surgeon reasonably believes that reporting the patient will serve the public interest.

This bill, *commencing with January 1, 2010*, would require a physician and surgeon to report specified information to the DMV, in writing, regarding certain patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness within the previous 6 months, as specified. The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

This bill would exempt a physician and surgeon from civil and criminal liability for making a report authorized or required by the bill. The bill, *commencing January 1, 2010*, would require the ~~department~~ DMV, upon receipt of a report made pursuant to the bill, to *reexamine the person's qualifications to operate a vehicle, as prescribed, and make a determination whether to restrict, make subject to terms and conditions of probation, revoke, or suspend a license based on the evaluation, reexamination, and assessment provided by the reporting physician, and to require a road examination for certain licensees.*

This bill would require the ~~department~~ DMV *to develop physician reporting forms on or before July 1, 2009, and, in cooperation with the State Department of Public Health and in consultation with appropriate professional medical organizations, to adopt regulations by January 1, 2010, defining disorders characterized by recurrent lapses of consciousness and listing those disorders that do not require reporting under the bill.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 103900 of the Health and Safety Code
- 2 is repealed.
- 3 ~~SEC. 2. Section 12818 of the Vehicle Code, as amended by~~
- 4 ~~Section 13 of Chapter 985 of the Statutes of 2000, is repealed.~~
- 5 SEC. 2. Section 12818 of the Vehicle Code, as amended by
- 6 Section 13 of Chapter 985 of the Statutes of 2000, is amended to
- 7 read:

1 12818. (a) Upon receipt of a request for reexamination and
2 presentation of a legible copy of a notice of reexamination by a
3 person issued the notice pursuant to Section 21061, or upon receipt
4 of a report from a local health officer issued pursuant to subdivision
5 (b) of Section 103900 of the Health and Safety Code, the
6 department shall reexamine the person's qualifications to operate
7 a motor vehicle, including a demonstration of the person's ability
8 to operate a motor vehicle as described in Section 12804.9.

9 (b) Based on the department's reexamination of the person's
10 qualifications pursuant to subdivision (a), the department shall
11 determine if either of the following actions should be taken:

12 (1) Suspend or revoke the driving privilege of that person if the
13 department finds that any of the grounds exist which authorize the
14 refusal to issue a license.

15 (2) Restrict, make subject to terms and conditions of probation,
16 suspend, or revoke the driving privilege of that person based upon
17 the records of the department as provided in Chapter 3
18 (commencing with Section 13800).

19 (c) As an alternative to subdivision (a), the department may
20 suspend or revoke the person's driving privilege as provided under
21 Article 2 (commencing with Section 13950) of Chapter 3.

22 (d) Upon request, the department shall notify the law
23 enforcement agency which employs the traffic officer who issued
24 the notice of reexamination described in subdivision (a) of the
25 results of the reexamination.

26 (e) This section shall remain in effect only until January 1, ~~2011~~,
27 2010, and as of that date is repealed, unless a later enacted statute,
28 that is enacted before January 1, ~~2011~~, 2010, deletes or extends
29 that date.

30 SEC. 3. Section 12818 of the Vehicle Code, as added by
31 Section 14 of Chapter 985 of the Statutes of 2000, is amended to
32 read:

33 12818. (a) Upon receipt of a request for reexamination and
34 presentation of a legible copy of a notice of reexamination by a
35 person issued the notice pursuant to Section 21061, the department
36 shall reexamine the person's qualifications to operate a motor
37 vehicle pursuant to Section 13801, notwithstanding the notice
38 requirement of Section 13801.

(b) Based on the department's reexamination of the person's qualifications pursuant to subdivision (a), the department shall determine if either of the following actions should be taken:

(1) Suspend or revoke the driving privilege of that person if the department finds that any of the grounds exist which authorize the refusal to issue a license.

(2) Restrict, make subject to terms and conditions of probation, suspend, or revoke the driving privilege of that person based upon the records of the department as provided in Chapter 3 (commencing with Section 13800).

(c) As an alternative to subdivision (a), the department may suspend or revoke the person's driving privilege as provided under Article 2 (commencing with Section 13950) of Chapter 3.

(d) Upon request, the department shall notify the law enforcement agency that employs the traffic officer who issued the notice of reexamination of the results of the reexamination.

(e) Upon receipt ~~receipt~~ of a report made pursuant to Section 13010 or 13011, the department shall *reexamine the reported person's qualifications to operate a motor vehicle, including requiring a road examination pursuant to Section 12804.9. The department shall make a determination to* ~~revoke restrict, make subject to terms and conditions of probation, revoke, or suspend a license based upon the evaluation and assessment provided by the reporting physician and surgeon, a road examination pursuant to Section 12804.9, and the factors enumerated in Section 110.01 of Title 13 of the California Code of Regulations. The department shall require a road examination, as described in Section 12804.9, for any licensee reported pursuant to subdivision (a) of Section 13011. For any other licensee reported pursuant to Section 13010 or 13011, the department may, at its discretion, require a road examination.~~

(f) *This section shall become operative on January 1, 2010.*

SEC. 4. Article 6 (commencing with Section 13010) is added to Chapter 1 of Division 6 of the Vehicle Code, to read:

Article 6. Physician and Surgeon Reporting of Medical
Conditions

13010. (a) A physician and surgeon shall report immediately to the department, in writing, the name, date of birth, and address

1 of every patient at least 15 years of age, or 14 years of age if the
2 patient has a junior permit, whom the physician and surgeon has
3 diagnosed with Alzheimer's disease or another dementia disorder;
4 or the physician and surgeon has diagnosed as suffering from a
5 single lapse of consciousness within the previous six months, if
6 the patient suffers from a disorder identified in Section 2806 of
7 Title 17 of the California Code of Regulations, and the physician
8 and surgeon believes, in his or her professional judgment, that the
9 risk of recurrence is sufficient to pose a threat to public safety; or
10 the physician and surgeon has diagnosed the patient as previously
11 suffering multiple lapses of consciousness, and whose medical
12 condition is identified in Section 2806 of Title 17 of the California
13 Code of Regulations, if substantial medical evidence suggests a
14 recurrence of a lapse of consciousness or that the condition
15 adversely affects the patient's ability to operate a motor vehicle.

16 (b) A physician and surgeon is not required to make a report
17 pursuant to this section if any of the following occurs:

18 (1) Within the previous six months, the physician and surgeon
19 previously made a report pursuant to this section for this patient,
20 and the condition has not substantially changed.

21 (2) Within the previous six months, the patient's condition was
22 initially diagnosed by another physician and surgeon, and the
23 physician and surgeon has knowledge that the prior physician and
24 surgeon either determined that a report was not required under this
25 chapter, or made a report to the department, unless there is
26 substantial medical evidence that the condition has substantially
27 changed and may adversely affect the person's ability to drive.

28 (3) The physician and surgeon making the initial diagnosis,
29 relying on substantial medical evidence, determines both of the
30 following:

31 (A) That the disorder can and likely will be controlled and
32 stabilized within 30 days of the initial diagnosis by medication,
33 therapy, surgery, a restriction on activities, or devices, and the
34 treatment has been prescribed, administered, or referred.

35 (B) That the patient's condition during the 30-day period does
36 not pose an undue risk to public safety while operating a motor
37 vehicle.

38 (c) A physician and surgeon shall not be civilly or criminally
39 liable to the reported patient for making any report required or
40 authorized by this section.

1 (d) For purposes of this section, “disorders characterized by
2 lapses of consciousness” means those disorders ~~provided for in~~
3 ~~Section 2806 of Title 17 of the California Code of Regulations.~~
4 ~~defined pursuant to paragraph (1) of subdivision (a) of Section~~
5 ~~13012.~~

6 (e) *This section shall become operative on January 1, 2010.*

7 13011. (a) A physician and surgeon may report immediately
8 to the Department of Motor Vehicles, in writing, the name, date
9 of birth, and address of every patient at least 15 years of age or
10 older, or 14 years of age if the person has a junior permit, whom
11 the physician and surgeon has diagnosed as having a disorder
12 characterized by lapses of consciousness, if a physician and surgeon
13 reasonably and in good faith believes that reporting the patient
14 will serve the public interest. The physician and surgeon may report
15 a patient’s condition even if it may not be required under the
16 department’s definition of disorders characterized by lapses of
17 consciousness pursuant to this article.

18 (b) A physician and surgeon who reports a patient pursuant to
19 this article shall contemporaneously complete and transmit to the
20 department the form prepared by the department for this purpose,
21 and shall address each of the factors specified in Section 110.01
22 of Title 13 of the California Code of Regulations of which the
23 physician and surgeon has knowledge. ~~On or before July 1, 2009,~~
24 ~~the physician reporting form shall be developed by the department~~
25 ~~to incorporate the factors contained in Section 110.01 of Title 13~~
26 ~~of the California Code of Regulations. This form shall be made~~
27 ~~available for downloading at the forms page on the department’s~~
28 ~~official Internet Web site for use by all physicians and surgeons.~~

29 (c) The reports transmitted pursuant to this article shall be for
30 use by the department only, and shall be kept confidential and used
31 solely by the department for the purpose of determining the
32 eligibility of any person to operate a motor vehicle on the highways
33 of this state, or for the purpose of a bona fide research project, if
34 the data is solely provided by the department in anonymous form.

35 (d) A physician and surgeon shall not be civilly or criminally
36 liable to the reported patient for making any report required or
37 authorized by this section.

38 (e) For purposes of this section, “disorders characterized by
39 lapses of consciousness” shall be those disorders ~~provided for in~~
40 ~~Section 2806 of Title 17 of the California Code of Regulations.~~

1 *defined pursuant to paragraph (1) of subdivision (a) of Section*
2 *13012.*

3 *(f) This section shall become operative on January 1, 2010.*

4 *13011.5. On or before July 1, 2009, the department shall*
5 *develop a physician reporting form that incorporates the factors*
6 *contained in Section 110.01 of Title 13 of the California Code of*
7 *Regulations. The form shall be made available on the department's*
8 *official Internet Web site for use by all physicians and surgeons.*

9 13012. (a) The department, in cooperation with the State
10 Department of Public Health, by January 1, 2010, shall adopt
11 regulations that do all of the following:

12 (1) Define disorders characterized by recurrent lapses of
13 consciousness, based upon existing clinical standards for that
14 definition for purposes of this article, and shall include in that
15 definition Alzheimer's disease and those related disorders that are
16 severe enough to result in recurrent lapses of consciousness and
17 are likely to impair a person's ability to operate a motor vehicle.

18 (2) List circumstances that shall not require reporting pursuant
19 to Section 13011, because the patient is unable to ever operate a
20 motor vehicle or is otherwise unlikely to represent a danger that
21 requires reporting.

22 (3) List circumstances that do not require reporting pursuant to
23 this section.

24 (b) The department shall consult with professional medical
25 organizations whose members have specific expertise in treatment
26 of those impairments, conditions, and disorders, including, but not
27 limited to, those associations related to epilepsy, in the
28 development of any required definitions and necessary reporting
29 guidelines to ensure that cases reported pursuant to this section
30 are limited to impairments, conditions, and disorders that are
31 characterized by a recurrent lapse of consciousness and that
32 compromise a patient's ability to safely operate a motor vehicle.